HVN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO. 44 OF 2007

Commissioner of Central Customs
(Import) ... Appellant

Versus

M/s. Rakesh Kumar & Co. .. Respondent

WITH
CUSTOMS APPEAL NO. 45 OF 2007

Commissioner of Central Customs
(Import) ... Appellant

Versus

Ramesh Kumar (HUF) ... Respondent

WITH
CUSTOM APPEAL NO. 48 OF 2007

Commissioner of Customs (Import) .. Appellant

Versus

M/s. Vidhan & Co. ... Respondent

Mr. P.S. Jetly with Mrs. S.V. Bharucha and Mr. K.R. Chaudhary for the Appellant.

Mr. S.N. Kantawala and Mr. Vinod Kothari i/by Apex Law Partners for Respondent.

CORAM: F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED: SEPTEMBER 06, 2007

P.C.:

. By a common order dated 6.7.2006, three appeal bearing Nos. C/735 to 737/2006 had been disposed off. The revenue has preferred an appeal against the said orders.

. The question of law reformulated for our consideration is as under :

> "Whether the condition that all import contracts for import of poppy seeds shall compulsorily be registered with Narcotics Commissioner Gwalior prior to import stands complied with if Bills of Lading are issued within the contract period, even though the goods are put on board the vessel and the Bills of Entry and Entry Inward are after the expiry of the contract period?"

. There are certain provisions pertaining to import of such goods. It was the contention of the department that there has been violation of Licensing Note 3 and condition (c) thereof appended to Chapter 12 of the ITC (HS) of Export and Import Items 2004/2009, which reads as under :

> "The contract for the import of Poppy Seeds shall be compulsorily registered with the Narcotics Commissioner, Gwalior prior to import...."

. There is no dispute that the contracts were

registered with Narcotic Commissioner, Gwalior before import. The contention of the department is that the goods were loaded on the vessel on 4.4.2006. The contract expired on 31.3.2006. In other words, it is submitted that at the time of import, the contract should have been valid.

. We have considered the contentions as also the provisions of the foreign trade policy and handbook of procedure. In terms of Para 9.11.a the date of shipment when the mode of transport is by sea, is the date affixed on the bill of lading. There is a finding of fact recorded by the tribunal that the bill of lading was issued on 29.3.2006. The contract was registered before that date.

. Once that be the case, in our opinion, the tribunal has not committed any error of law and the question of law as reformulated would not arise.

. All the three appeals accordingly dismissed.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**